

SENATE BILL No. 411

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-28-5.

Synopsis: Penalties for nursing home violations. Increases the penalties for violations of statutes or administrative rules governing health facilities. Provides that a person who fails to comply with an order for immediate correction may be subject to a civil penalty of not more than \$10,000 per day for each day of continued noncompliance.

Effective: July 1, 1999.

Simpson

January 11, 1999, read first time and referred to Committee on Health and Provider Services.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 411

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-28-5-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The
3 commissioner shall impose the following remedies for breaches of this
4 article or a rule adopted under this article:

5 (1) For an offense, the remedies specified in subsection (b)(1)
6 through (b)(2). The commissioner may also impose the remedy
7 specified in subsection (b)(3).

8 (2) For a deficiency, the remedies specified in subsection (b)(1)
9 ~~The commissioner may also impose the remedies specified in~~
10 ~~subsection and~~ (b)(4).

11 (3) For a breach that is a repeat of the same deficiency within a
12 ~~fifteen (15)~~ **twelve (12)** month period, the remedies specified in
13 subsection (b)(1) through ~~(b)(2)~~: ~~The commissioner may also~~
14 ~~impose the remedy specified in subsection~~ (b)(3).

15 (4) For a noncompliance, the remedies specified in subsection
16 (b)(5) through (b)(6).

17 (5) For a breach that is a repeat of the same noncompliance within



1 a ~~fifteen (15)~~ **twelve (12)** month period, the remedies specified in
 2 subsection (b)(1) ~~The commissioner may also impose the~~
 3 ~~remedies specified in subsection (b)(4); and (b)(4).~~

4 (6) For a nonconformance, the remedies specified in subsection
 5 (b)(5) **and (b)(7).**

6 (7) For a breach that is a repeat of the same nonconformance
 7 within a ~~fifteen (15)~~ **twelve (12)** month period, the remedies
 8 specified in subsection (b)(5) through (b)(6).

9 (b) The remedies for breaches of this article or rules adopted under
 10 this article are as follows:

11 (1) Issuance of an order for immediate correction of the breach.

12 (2) Imposition of a fine not to exceed ~~ten fifteen~~ thousand dollars
 13 ~~(\$10,000) or (\$15,000) and~~ suspension of new admissions to the
 14 health facility for a period not to exceed forty-five (45) days. ~~or~~
 15 ~~both.~~

16 (3) Revocation by the director of the health facility's license or
 17 issuance of a probationary license.

18 (4) Imposition of a fine not to exceed ~~five ten~~ thousand dollars
 19 ~~(\$5,000) or (\$10,000) and~~ suspension of new admissions to the
 20 health facility for a period not to exceed thirty (30) days. ~~or both.~~

21 (5) A requirement that the health facility comply with any plan of
 22 correction approved or directed under section 7 of this chapter.

23 (6) ~~If the health facility is found to have a pattern of breach, the~~
 24 ~~commissioner may suspend~~ **Imposition of a fine not to exceed**
 25 **two thousand dollars (\$2,000) and suspension of** new
 26 admissions to the health facility for a period not to exceed fifteen
 27 (15) days. ~~or impose a fine not to exceed one thousand dollars~~
 28 ~~(\$1,000); or both.~~

29 (7) **Imposition of a fine not to exceed one thousand dollars**
 30 **(\$1,000).**

31 (c) If a breach is immediately corrected and the commissioner has
 32 imposed remedies under subsection (b)(2) **or (b)(4)**, the commissioner
 33 may waive not more than fifty percent (50%) of the fine imposed and
 34 reduce the number of days for suspension of new admissions by
 35 one-half (1/2).

36 (d) The commissioner ~~may~~, **shall**, with the concurrence of a licensed
 37 physician, impose ~~the following: the remedies specified in subsection~~
 38 **(b)(1) through (b)(2)**

39 ~~(1) for an omission of care or an act that:~~

40 **(1)** does not fall within a classification of a rule under this section;
 41 and

42 **(2)** ~~that~~ the facility should reasonably have known would:



1 (A) present a substantial probability that death or a life
 2 threatening condition will result; ~~one (1) or any combination~~
 3 ~~of the remedies specified in subsection (b)(1) through (b)(3);~~
 4 (2) For an omission of care or an act that:
 5 (A) does not fall within a classification of a rule under this
 6 section; and
 7 (B) the facility should reasonably have known would or
 8 (B) result in an immediate or a direct, serious adverse effect on
 9 the health, safety, security, rights, or welfare of a patient.
 10 the remedies specified in subsection (b)(1) or (b)(4), or both.
 11 (e) **The commissioner may, with the concurrence of a licensed**
 12 **physician, impose the remedies specified by subsection (b)(3) for an**
 13 **omission of care or an act described in subsection (d).**
 14 SECTION 2. IC 16-28-5-4.5 IS ADDED TO THE INDIANA CODE
 15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 1999]: **Sec. 4.5. A person who fails to comply with an order for**
 17 **immediate correction issued by the commissioner under section**
 18 **4(b)(1) of this chapter after the order becomes effective is subject**
 19 **to a civil penalty of not more than ten thousand dollars (\$10,000)**
 20 **for each day of continued noncompliance.**

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